

UPTOWN

Cities play an important role in the state's competitiveness efforts

Delegates to the annual MASC Hometown Legislative Action Day will hear from one of the state's key business groups when George Fletcher, executive director of the South Carolina Council on Competitiveness, delivers the luncheon address February 22.

Earlier this year, Howard Duvall, MASC executive director, heard Council on Competitiveness Chairman Ed Sellers speak to a group of statewide business leaders about competitiveness and economic development issues. One of the points Sellers made to this group was stressing that strong cities are an integral part of the state's efforts

to improve its competitiveness and increase quality of life for its citizens.

"His message was music to my ears because the value that cities and towns bring to the state's economic development efforts is so clearly aligned with the vision of the South Carolina Council on Competitiveness," Duvall said. He quickly contacted the Council with an invitation to brief HLAD delegates on the competitiveness initiative and the role cities and towns play in this long-term effort.

The Council on Competitiveness is a result of collaborations spearheaded by the Palmetto Institute and the South

Carolina Department of Commerce and includes representatives from more than 50 business, government and education organizations intent on ratcheting up the state's economy. Spartanburg Mayor Bill Barnet was one of the initial appointees to this group and serves on the council's executive committee. The focus of the Council is developing industry clusters, increasing collaboration among industries, encouraging educational initiatives and promoting South Carolina successes.

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Deadlines for full compliance with the National Incident Management System (NIMS) have passed

To be eligible for federal preparedness assistance funding, all local governments should have adopted resolutions to formally implement the National Incident Management System (NIMS) by September 30. "Municipalities that have not met the deadlines should get in compliance as soon as possible,"

said Howard Duvall, MASC executive director. "It is only a matter of time before a hurricane or some other disaster will require them to use this system. Future federal assistance after a disaster may be in jeopardy." (A copy of the model resolution is located in the "Resources" section of MASC's Web site at www.masc.sc).

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Fletcher, the Council's first executive director, is charged with steering the Council and the 200-plus volunteers serving on issue task forces and cluster committees.

"Business, political, civic and academic leadership are coming together in an unprecedented fashion to implement an economic model that can help South Carolina prosper," said Fletcher. "If we do it right, this work will have a profound impact on generations to come."

The initial research commissioned by the Council was completed in December 2003. The goal of this project was to identify South Carolina's economic strengths and weaknesses and make recommendations on the state's long-term approach for increasing its competitiveness.

This report consistently showed South Carolina has great potential — the state has vast resources and motivated people. However, moving the state from a place where low-cost labor is abundant to a location where new, innovative businesses can thrive is the primary challenge, the study found.

In May 2005, the Council released *A Strategic Plan for South Carolina*. "This plan outlines a long-term action agenda for building prosperity in the state and gives the Council its marching orders," said Fletcher.

The strategies center on developing clusters of businesses that encourage innovation to create higher-quality products and services. A cluster is more than a single industry making a single product. Companies located in clusters can be more innovative and productive than isolated firms. Successful clusters involve a variety of related industries, suppliers and institutions, all located in the same place. The movie industry in Hollywood is perhaps the most famous example.

Focus areas of the SC competitiveness initiative:

- Activate and upgrade clusters
- Continue to enhance education and workforce training
- Invest in research and the university system
- Launch internal and external marketing campaigns
- Create an explicit economic development program for distressed and disadvantaged areas
- Increase support for startups and local firms
- Create new institutions to support economic development
- Measure progress in raising prosperity

Clusters

- Tourism
- Agribusiness
(includes 10 sub-clusters)
- Apparel and textiles
- Aviation
- Automotive
- Hydrogen fuel cells

Clusters to be activated include pulp and paper, health sciences and distribution.

The Council's strategic plan recognizes creating an environment to support the growth of these clusters will come from partnerships among business, government at all levels, education and policy makers. Integral to this success is the strength of the cities and towns where the businesses in these developing clusters will locate, grow and flourish.

"Creating these new business clusters in South Carolina requires a

solid infrastructure rooted in education and workforce development and a healthy environment for innovation and collaboration. City leaders can help establish these conditions, particularly in South Carolina's more distressed areas," Fletcher said.

The state's primary business organizations — the State Chamber of Commerce, the Palmetto Business Forum, the Palmetto Institute and the Council on Competitiveness — have pulled together behind the competitiveness initiative. Using their collective voice, they are taking this competitiveness agenda to policy makers and the business community at-large. Cities and towns, too, need to make their value known as part of this long-range strategy.

"Strong cities are essential partners in supporting this growth and re-tooling effort of the state," Fletcher added. "We need leadership and collaboration to focus assets and resources locally and regionally, ultimately helping us realize greater prosperity and quality of life for South Carolinians."

For more information on the SC Council on Competitiveness or to download A Strategic Plan for South Carolina, visit www.CompeteSC.org or call Amy Love at 803.264.4524.

Hometown Legislative Action Day registration materials will be mailed January 3. The event will be held at the Columbia Marriott on February 22. Hotel reservation deadline for the \$107 group rate is January 31. The HLAD pre-registration deadline is February 7.

Workers' compensation costs pose a crisis

Workers' compensation costs are increasing in South Carolina. Earlier this year, the National Council on Compensation Insurance (NCCI) proposed a 33 percent rate increase for the voluntary (commercial) insurance market. While the Department of Insurance (DOI) rejected this increase as being excessive, NCCI appealed the decision to the Administrative Law Court for a final ruling. Even though the court is likely to reduce the NCCI's recommended increase, the final rate increase is expected to be substantial.

Many factors have contributed to increased workers' compensation costs, with the Second Injury Fund (SIF) assessment being the primary one. Statewide assessment increased almost 100 percent from 2003 to 2004 (\$127 million versus \$253 million). Because SIF assessments are based on gross claims paid, accurate predictions of assessments from year to year are impossible.

Because of the double-digit increase, several groups (the business community, the Self Insurance Association and the insurance industry) are advocating abolishing the fund. "SIF has outlived its original purpose, and it must be eliminated. The disadvantages now far outweigh the advantages for all but a few employers in South Carolina," said Harvey Mathias, MASC's director of Risk Management Services.

Members of the South Carolina Municipal Insurance Trust (SCMIT) self-insured workers' compensation program, sponsored by MASC, will see an overall 15 percent rate increase effective January 1. This is more than 50 percent less than the national average for workers' compensation rate increases.

"The board's actions should keep SCMIT very competitive with other workers' compensation options for our municipalities," said Harvey Mathias, MASC's director of Risk Management Services. "The one area where SCMIT always excels is the service provided to the members. Our service is always second to none."

Mathias pointed to medical inflation as another reason for increased workers' compensation costs. Medical costs continue to increase at double-digit levels each year. In South Carolina, workers' compensation medical costs now exceed indemnity (benefits) costs each year.

Court decisions have also pushed workers' compensation costs higher.

There is more attorney involvement in South Carolina workers' compensation cases than the national average.

"We continue to see attorneys advertising for clients on TV or on the radio. Whenever an attorney gets involved, the workers' compensation cost rises," Mathias said.

Finally, workers' compensation commissioners have leaned heavily in favor of providing benefits beyond those recommended by medical professionals. "The commissioners feel their job is to protect the interests of an injured worker, not the employer. Workers' compensation was created to 'balance' the needs of the injured worker against the liability of the employer," said Mathias.

The bottom line: Workers' compensation reform is needed, and the Legislature must act next year. Please discuss these issues and your concerns with your legislative delegation. This issue is not only one of cost, but also one affecting the economy of South Carolina. Insurance companies are withdrawing from the marketplace, and some businesses are looking at their survival. Without employers, there will be no jobs. Without jobs, there will be no workers' compensation claims, but this is certainly not the solution for South Carolina's workers' compensation crisis.

MASC prepares way for enhanced member services

As requested by our municipalities, MASC will no longer collect Social Security numbers to identify officials. The individual's birth month/day and the last four digits of his/her Social Security number will now be used as unique identifiers to ensure the correct information about meetings, memberships, etc., is associated with each official. This unique identifier will also be used to gain access to a future "members-only" section of the MASC Web site. MASC's plan includes allowing individuals to use the Web to register for meetings, update contact information and view a history of meetings attended. MASC will use these numbers for internal purposes only.

Local governments should have also conducted an assessment of the current level NIMS requirements, established a time frame to fully implement NIMS, institutionalized the use of Incident Command System (ICS), incorporated NIMS into ongoing and new training exercises and signed the South Carolina Statewide Mutual Aid Agreement.

All agency heads, managers and supervisors for emergency response agencies must have completed the introductory training course, "National Incident Management System (NIMS), An Introduction," by September 30, 2005. The course is a Web-based awareness-level course explaining NIMS components, concepts and principles. It is designed to be taken online as an interactive Web course; however, the course materials may be downloaded and used in a group or classroom setting. Responder-level personnel are required to complete the course by May 1, 2006. Failure to complete these requirements may prevent local jurisdictions from being eligible for Homeland Security Grant funding in the 2006 fiscal year.

Developed by the secretary of Homeland Security at the request of the president, NIMS integrates effective practices in emergency preparedness and response into a comprehensive national framework for incident management. It will enable responders at all levels to work together more effectively to manage domestic incidents, no matter the cause, size or complexity.

NIMS is more than an Incident Command System. It establishes standardized incident management processes, protocols and procedures that all responders — federal, state, tribal and local — will use to coordinate and conduct response actions. With responders using the same standardized procedures, they

will all share a common focus and will be able to place full emphasis on incident management when a homeland security incident occurs — whether terrorism or natural disaster. National preparedness and readiness in responding to and recovering from an incident is enhanced, as all of the nation's emergency teams and authorities are using a common language and set of procedures.

"Hurricane Katrina was a stark reminder of how critical it is for our nation to approach incident management in a coordinated, consistent and efficient manner," explained Michael Chertoff, secretary of Homeland Security. "We must be able to come together, at all levels of government, to prevent, prepare for, respond to and recover from any emergency or disaster. Our operations must be seamless and based on common incident management doctrine, because the challenges we face as a nation are far greater than the capabilities of any one jurisdiction. NIMS is our nation's incident management system, and recent events have taught us that full implementation of NIMS among all jurisdictions and all levels of government must be achieved as quickly as possible."

The benefits of NIMS will be significant:

- Standardized organizational structures, processes and procedures;
- Standards for planning, training and exercising, and personnel qualification standards;
- Equipment acquisition and certification standards;
- Interoperable communications processes, procedures and systems;
- Information management systems; and
- Supporting technologies — voice and data communications systems, information systems, data display systems and specialized technologies.

States and local jurisdictions must be fully compliant with NIMS beginning in the 2007 fiscal year (October 2006) to receive federal preparedness funding.

For further information about NIMS, contact Mike Elieff, NIMS coordinator, SC Emergency Management Division, 2779 Fish Hatchery Road, West Columbia, SC 29172, 803.737.8717 or melieff@emd.state.sc.us.

Key Web links

- SCEMD-NIMS information
www.scmd.org/library/NIMS/NIMS.htm
- NIMCAST
www.fema.gov/nimcast/index.jsp
- IS-700 "National Incident Management System (NIMS), An Introduction" (online course) www.training.fema.gov/emiweb/IS/is700.asp
- General information about NIMS
<http://nimsonline.com>

News Briefs



■ The National Civic League is accepting applications for the 57th Annual All-America City Award. The award recognizes communities overcoming challenges through innovative leadership and collaborative problem-solving. For more information or to receive an application, visit www.ncl.org/aac. Application deadline is March 9.

■ In October, SC Municipal Finance Officers, Clerks and Treasurers Association members elected their 2005-2006 board of directors. President — Charlotte Cheatham, CMC, of Edgefield; Vice President — Tammy Barkley, CMC, of Cayce; Secretary/Treasurer — David Seifert, CPA, of Greer; Members at-Large — Vanessa Turner-Maybank, CMC, of Charleston, Dora Perry of Tega Cay, Kelly Lovette of Goose Creek and Fran Strickland of Abbeville; Past President — Tina Wicker, CMC, of Newberry.

■ In October, SC Business Licensing Officials Association members elected their 2005-2006 board of directors. President — Patricia Fowler of Williston; Vice President — Lex Kirkland, MBL, of Aiken; Secretary/Treasurer — Benny Genwright, MBL, of Dillon; Members at-Large — Laurie Lane, ABL, of Hartsville, Jeffrey Bowman, MBL, of Greenville and Patricia Jones of Batesburg-Leesville; Past President — Rusty Lameo, MBL, of Kiawah Island.

■ Carrie Johnson, finance director/city clerk of the City of Orangeburg, was awarded the designation of Certified Municipal Clerk from the International Institute of Municipal Clerks for achieving its high educational, experience and service requirements.

■ Visit www.masc.sc for a list of resources about the state Freedom of Information Act.

City living is a good deal

Sixth-grade science fair projects usually conjure up images of chemistry sets and foaming model volcanoes, but Kaylee Waters went in a different direction — she chose to study the cost of living in the city versus the county.

The daughter of a real estate agent, Kaylee started her research assuming that living in the City of Gaffney was more expensive because of “double taxation.” After gathering data from the Cherokee County Tax Assessor’s Office and numerous other sources, she discovered city living was less costly.

Kaylee used a \$100,000 home (median sales price of a home in Cherokee County) in three different areas of the county to determine costs. From there, she calculated property taxes, home owners’ insurance, vehicle taxes, power bills, water bills and gasoline costs. While living in the City of Gaffney costs \$503.60 more annually in property and vehicle taxes, the higher county costs for other living expenses quickly added up.

Due to better fire department response times and capabilities, city residents usually pay less for home owners’ insurance. Combined with lower power and water bills, the cost of city living equaled the cost of living in areas of the county. (The City of Gaffney is one of the state’s 21 municipal electric cities. Its rates are lower than electric providers serving the county.)



Where is it cheaper to live? Kaylee Waters’ science fair project investigated the cost of city living versus living in the county. When all is added up, her hometown of Gaffney was the best deal.

Many people don’t think about the cost of driving when considering where to live, but it’s the cost of owning and operating a car that pushes the expense of living in the county above locating in the city. Kaylee found living closer to work, shopping and other daily conveniences makes city living far less expensive than the county. Her calculations found that the increased driving due to living in the county added more than \$400 annually to county expenses versus city living.

After starting with the opposite assumption, Kaylee Waters uncovered a truth that city planners and economists have known for years — city living is often less expensive than living in rural areas.

MASC would like to hear how the expense of living in your city or town compares to living in the county. Please send your stories and calculations about the value of living in a municipality to Eric Meyer at emeyer@masc.sc.

Free speech rights require a “small groups” exception in parade permit ordinances

by Danny C. Crowe, Attorney, Turner Padgett Graham & Laney P.A.

If your municipal parade permit ordinance requires small groups of sidewalk demonstrators to apply for a parade permit, it violates the constitutional right to free speech. The United States Court of Appeals for the Fourth Circuit issued this ruling in a July 26 decision arising from a challenge to the parade ordinances of two South Carolina municipalities (Travelers Rest and Charleston).

In *Cox v. City of Charleston*, 416 F.3d 281 (4th Cir. 2005), the Federal Appeals Court agreed with the Federal District Court that the Travelers Rest parade ordinance was unconstitutional because it was not limited to “large groups.” (Charleston did not appeal the unfavorable Federal District Court ruling, and its ordinance was not involved in the appeal.) Both courts concluded that a parade ordinance provision requiring a permit by “small groups” of sidewalk demonstrators was not “narrowly tailored” to satisfy the First Amendment.

In Travelers Rest, a group of 16 demonstrators, according to the appeals court decision, “were standing on a public sidewalk in the City, holding signs, praying, sharing their religious beliefs, and handing out pamphlets that advocated alternatives to abortion.” The demonstrators were not arrested, but were informed by Travelers Rest police they were violating City ordinance prohibiting “any parade, meeting, exhibition, assembly or procession of persons and/or vehicles on the streets or sidewalks” without a written permit.

The Fourth Circuit Court recognized a city may be justified in imposing ordinances requiring parade permits in advance as a “traditional exercise of control” of public streets

and public places. However, any permit controlling the time, place and manner of speech must not be based on the content of the speech, must be narrowly tailored to serve a significant governmental interest and must leave open ample alternatives for communication.

The court concluded the ordinance was overly broad in its reach, and the government’s interests in keeping its streets and sidewalks safe, orderly and accessible did not justify placing the burden of advance permitting on public demonstrations involving a small number of participants. The court also noted the time-delay aspects of a permitting procedure impeded and discouraged political speech responding to “immediate” political issues.

The appeals court emphasized cities have “a number of tools at their disposal” to meet their goal of keeping streets and sidewalks safe, orderly and accessible without offending the First Amendment. Cities could enforce ordinances prohibiting and punishing conduct that disturbs the peace, blocks the sidewalks or impedes the flow of traffic. Cities could also pass ordinances regulating the volume, location or duration of protected expression, rather than subject all speech to a permit requirement. Finally, the court suggested cities could link the permit requirement to “its practical justification” by requiring a permit only when city services were required because the event interfered with normal vehicular or pedestrian traffic.

In an additional ruling, the appeals court struck down as unconstitutional the provision in the Travelers Rest ordinance banning Sunday morning parades. The court found that the City failed to explain how such a ban served the ordinance’s stated purposes of safety and preserving order.

Neither the appeals court nor the district court provided a direct answer to the question of when a “small group” becomes a “large group” for which a city could require a parade permit. The Fourth Circuit’s panel of three judges (which included two judges from this state) specifically “declined to announce a numerical floor below which a permit requirement cannot apply.” 416 F.3d at 286.

The district court decision noted many parade ordinances (including ordinances enacted by Beaufort and Mount Pleasant) contained a 50-person exemption. The court also noted a recent United States Supreme Court case upholding a Chicago ordinance requiring a permit for use of public parks for events of 50 persons or more (*Thomas v. Chicago Park District*, 534 U.S. 316, 122 S. Ct. 775, 151 L.Ed.2d 783 (2002)). However, the district court concluded a 50-person exemption was not directly at issue in *Thomas* and was not judicially mandated by other cases.

Municipalities should consult with their municipal attorney to add a specific exception to address the *Cox* ruling. Such an exception, for example, could provide that the permit requirements do not apply to demonstrations or gatherings of 50 persons or less that do not occur on the streets and do not interfere with the normal flow of vehicular or pedestrian traffic.

A more comprehensive approach would be to re-define “parade” more narrowly to its traditional meaning of a procession or motorcade and provide a new, defined term (such as “public assembly”) that better encompasses demonstrations and picketing. These separate definitions would recognize the difference between events that necessarily would interfere with

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normal traffic and require city services (such as the traditional parade or motorcade on the streets) and events that likely would not interfere with traffic and require city services (such as a contained sidewalk or public park protest or demonstration by a small number of participants). Parades would require a permit; a public assembly would not. This is the approach taken by the ordinances of Beaufort and Mount Pleasant, two of the municipalities mentioned in the district court *Cox* decision as having implemented a 50-person exemption.

A "parade" is defined in the Mount Pleasant ordinance as "any march, procession or motorcade consisting of persons, animals or vehicles, or a combination thereof, upon the streets within the town that interferes with the normal flow or regulation of traffic upon the streets or sidewalks." Beaufort's definition deletes any reference to "sidewalks."

A "public assembly" is defined in the Beaufort ordinance as "any meeting, demonstration, picket line, rally or gathering of more than fifty (50) persons for a common purpose as a result of prior planning interferes with the normal flow or regulation of pedestrian or vehicular traffic." Mount Pleasant's definition is nearly identical.

Both ordinances focus on interference with traffic and limit the permit requirement to events that interfere with traffic. Both assume, by definition, "public assembly" events with 50 participants or less will not interfere with traffic; a "public assembly" event with 50 participants or less does not require a permit. However, a march in the street (as opposed to a march on the sidewalk) interfering with traffic requires a permit, regardless of the number of participants.

Both ordinances also allow for nearly "immediate" reaction to political or other events. Both contain an exception for "spontaneous events

occasioned by news or affairs coming into public knowledge within three (3) days of such public assembly, provided that the organizer thereof gives written notice to the city, at least twenty-four (24) hours prior to such parade or public assembly."

The Beaufort ordinance was adopted in June 2000 and is codified in the City Code as Chapter 6 ("Parades, Picket Lines, Group Demonstrations") at sections 7-6001 through 7-6018. These city code sections can be viewed on the Municipal Code Corporation Web site's free online library at www.municode.com. The Mount Pleasant ordinance was adopted in March 2002 and is codified in the Town Code as Chapter 94 ("Parades, Demonstrations, Public Assemblies and Picketing") at sections 94.01 through 94.99. These town code sections can be viewed on the American Legal Publishing Corporation Web site's free library at www.amlegal.com.



■ The City of Clinton is accepting applications for the position of public safety officer. Submit applications to the Clinton Public Safety Department, 404 N. Broad Street, Clinton, SC 29325.

■ Florence County is accepting applications for a planning and development director. Applications accepted in the Florence County Human Resources Department, Room 103, City-County Complex, Florence, SC 29501. For more information, visit www.florenceco.org.

■ The City of Spartanburg is accepting applications for the position of forensics technician. Apply at Spartanburg City Hall, 145 W. Broad Street, Room 103, Spartanburg, SC 29304; fax resumé to 864.596.2262 or submit resumé with salary expectations to hr2@cityofspartanburg.org.

■ The City of Charleston is accepting applications for the position of civil engineer. Send resumé to City of Charleston, Human Resources Division, 701 East Bay Street, MSC 1220, Charleston, SC 29403, e-mail HR@ci.charleston.sc.us or fax 843.724.7358. For more information, visit www.charlestoncity.info.

■ The City of Hardeeville is accepting applications for the position of assistant media director. Send resumé and demo tape to Paul Floeckher, Media Director, City of Hardeeville, PO Box 609, Hardeeville, SC 29927.

■ The City of Hardeeville is accepting applications for the positions of principal planner and planning and zoning clerk. Send resumé to City of Hardeeville, Attn: Planning Director, PO Box 609, Hardeeville, SC 29927.

■ Beaufort-Jasper Water and Sewer Authority is accepting applications for the position of water treatment operator A or B. Send application/resumé to Human Resources, Attn: Diane, 6 Snake Road, Okatie, SC 29909.

■ The Town of Hilton Head Island is accepting applications for a revenue and collections administrative manager. Visit the "Employment Opportunities" section at www.hiltonheadislandsc.gov for submission information.

Additional jobs are posted on MASC's Web site at www.masc.sc/misc/jobs/htm.



Educational Opportunities

Municipal Technology Association of SC

■ **January 18**, will hold its Annual Meeting at Seawell's in Columbia.

Hometown Connection

■ **January 31**, municipal officials from Beaufort, Berkeley, Charleston, Colleton, Dorchester, Dillon, Florence, Georgetown, Hampton, Horry, Jasper, Marion and Williamsburg counties visit with their state legislators. Officials should meet at MASC's office at 1411 Gervais Street in Columbia at 10:30 a.m.

Municipal Elected Officials Institute of Government

■ **February 21**, will hold Sessions A and B at the Columbia Marriott in Columbia.

MASC

■ **February 22**, will hold its Hometown Legislative Action Day at the Columbia Marriott. See related article on page 1.

Municipal Elected Officials Institute of Government

■ **March 2**, will present "Basic Budgeting for Municipal Officials." The session will be broadcast via satellite to the 10 regional councils of government.

SC Utility Billing Association

■ **March 8-10**, will hold its Annual Meeting at Francis Marion Hotel in Charleston.

SC Municipal Clerks and Treasurers Institute

■ **March 15-17**, will hold its Spring Training Session at the Clarion Town House Hotel in Columbia.

SC Association of Municipal Power Systems

■ **March 22**, will hold its legislative event at Seawell's in Columbia.

Hometown Connection

■ **March 28**, municipal officials from Anderson, Cherokee, Chester, Fairfield, Greenville, Lancaster, Oconee, Pickens, Spartanburg and York counties visit with their state legislators. Officials should meet at MASC's office at 1411 Gervais Street in Columbia at 10:30 a.m.

For more information about these meetings or other MASC meetings not listed, please call 803.799.9574, or visit our Web site at www.masc.sc.



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